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EXAMINER

VAN DOREN, BETH

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/517,043

Applicant(s)

BRINKERHOFF, RICHARD

Examiner

Beth Van Doren

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE

3 MONTH(S) FROM

THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/10/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 18-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 18-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/10/03 has been entered.

2. The following is a non-final office action in response to the request for continued examination received on 07/10/03. Claims 13, 18, 27, and 30-33 have been amended. Claims 14-17 and 41 have been canceled. Claims 1-13 and 18-40 are now pending in this application.

Response to Amendment

3. Examiner acknowledges Applicant's amendment to claims 13, 18, 27, and 30-33.

Response to Arguments

4. Applicant's arguments with regard to Sheff ("Mr. Satisfaction") have been fully considered but they are not persuasive. In the remarks, Applicant argues that Sheff (1) does not teach or suggest "receiving an order from a first customer for an item purchased from an electronic catalog" and does not teach or suggest Examiner's asserted "wherein customer orders an item. This item falls onto a list that reflects when the item was purchased", (2) discloses using fixed, pre-determined time periods to send out surveys after purchase (e.g., 90 days, one year, five years) regardless of the type of vehicle and therefore does not teach or suggest "estimating by what date...based at least on item type", (3) does not teach or suggest presenting a received review to a second customer interested in the item, and just provides aggregated and

Art Unit: 3623

processed survey results to the public, (4) does not teach or suggest requesting a customer to review a seller of the purchased item on or after an estimated date, (5) does not teach or suggest giving opinions using numbers or text, (6) does not teach or suggest offering the first customer a reward in exchange for the customer providing a review since the \$1 bill included with the survey as a "thank you/incentive" may be kept by the customer without the completion of the survey, (7) merely discloses fixed, pre-determined time periods to send out surveys about vehicles and therefore teaches away from and cannot be modified for the inclusion of the item being a book, and (8) there is no motivation to modify Sheff to receive orders from a customer for an item purchased from an electronic catalog or send reviews and review requests via electronic means-Sheff actually teaches away from these modifications by disclosing hand-addressed envelopes with enclosed \$1 bills which could not be done electronically.

In response to argument (1) of the Applicant, Examiner respectfully disagrees. Sheff teaches that a purchase/buy request for an item (ex. a car) is received at some location and after the transaction occurs, the purchaser's name falls onto a list reflecting the new item's (ex. a car) ownership. Reviews are sent to the purchaser's view the names on the list. Examiner points out that Examiner never asserted that Sheff taught an electronic catalog. Examiner maintains the rejections set forth below (specifically, in this instance, the rejection of claim 1).

In response to argument (2) of the Applicant, Examiner respectfully disagrees and points out that item review surveys are done for many items, such as hotels, tires, phone service, cars, etc., as disclosed on page 1, section 1. A car is a type of item that is reviewed, this process explained in more depth in the article. Knowledge of the driver is ascertained and the review is

sent to this user of the item at an estimated time period of usage adequate for the item.

Therefore, a different process of survey time periods would occur if the item were not a car.

In response to argument (3) of the Applicant, Examiner respectfully disagrees. Examiner points out the limitation does not suggest how or in what form the review is provided to the second customer and therefore Sheff providing the review in combination with the reviews of other customers meets this limitation. See page 2, sections 2 and 3, pages 3, section 2, page 4, section 2.

In response to argument (4) of the Applicant, Examiner respectfully disagrees. Sheff teaches, as stated by the applicant, measuring which dealers in the country have the most satisfied customers. See at least page 5, section 1. Therefore, Sheff does teach and suggest reviewing a seller.

In response to argument (5) of the Applicant, Examiner points out that she stated that Sheff teaches customers supplying reviews of items purchased through the customers being provided and filling out review forms, as disclosed on page 1, sections 1-3, page 3, sections 2-7, and page 4, 1-2, but she also stated that Sheff did not expressly disclose the format of the form. Examiner relied on Klingman to teach numerical ratings or textual ratings, which are disclosed in at least column 12, lines 18-30 and 51-63, and column 13, lines 9-15, 19-25, 40-49. Therefore, Examiner respectfully disagrees with the argument of the applicant.

In response to argument (6) of the Applicant, Examiner respectfully disagrees. Examiner asserts that the customer is offered a reward by the requesting party in exchange for the providing of a review. Therefore, the intent of the requesting party is that the \$1 bill is an incentive in exchange for completing the survey. Whether or not the person responds is

irrelevant to the incentive (i.e. reward) intent of the payment by the requesting party. See page 3, section 3, of Sheff wherein the respondents are presented an incentive/prize by the requesting party as a trade for providing the review.

In response to argument (7) of the Applicant, Examiner respectfully disagrees. Examiner has relied on Sheff to teach the elements of an estimated time period and estimating by what date the first customer will have at least initially evaluated the item based at least on the item type, as shown in at least page 3, sections 2-7, and page 4, sections 1-2. Therefore, the estimation occurs based on at least on the item type (i.e. the item type is a car and 90 days are estimated as the time period for initial evaluation). Sheff also discloses rating Airlines, Hotels, etc. and that this period is used with the item type of cars. Examiner has relied upon Klingman to disclose the item type of a book and rating this item after purchase, as taught in at least column 8, lines 22-25, column 9, lines 9-13 and 41-46, column 12, lines 33-42, and column 20, lines 55-59. Therefore, since Sheff provides reviews for multiple items, such as cars, credit cards, airlines, hotels, etc. (the title even states "and Who-Knows-What's-Next"), Sheff does not teach away from the inclusion of other items for reviewing purposes.

It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Sheff discloses the practice of providing follow-up reviews for items at estimated time intervals after purchase to ascertain an opinion about said purchase based on an adequate period of usage, as stated by Sheff, pages 1, 3, and 4. Klingman also discloses follow-up evaluations provided by customers for purchased item types such as books, as stated in column 4, lines 60-62, and column 9, lines 40-45, and that a book is an item purchased electronically, as stated above. Furthermore, it is old and well known

Art Unit: 3623

that a common way to use a book is to read it and the time this usage (reading) takes depends on factors such as its length. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item after the customer had had enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating.

In response to argument (8) of the Applicant, Examiner respectfully disagrees.

Automating processes that were previously done manually was old and well known to and within the knowledge of one of ordinary skill in the art at the time of the invention. Ordering items via electronic catalogs, sending customers coupons and rebates via electronic means, and sending mail to customers via electronic means and receiving responses from said customers via electronic means was old and well known at the time of the invention. Therefore Examiner maintains that merely automating the manual process of Sheff would have been obvious to one of ordinary skill in the art at the time of the invention in order to increase the efficiency and timeliness of the surveying and purchasing processes by automating processes that were previously done manually or by mail. Increased efficiency and timeliness are well known effects of automation.

5. Applicant's arguments with regard Klingman (U.S. 5,950,172) have been fully considered but they are not persuasive. In the remarks, Applicant argues that (9) Klingman does not teach or suggest textual reviews, (10) that the digital Yes/No input of Klingman is not a textual review and that this Yes/No input is not provided to other customers, (11) Klingman does not teach or suggest "selecting a time for requesting a review" but instead teaches a mechanism

Art Unit: 3623

that prevents multiple access to reviewing, (12) Klingman accepts reviews through the clicking of the "Score" button which is always displayed whether or not the user has received a purchased product and has had time to evaluate the product and there is no teaching, suggestion, or motivation to include waiting to accept scoring to occur until this time occurs, (13) Klingman does not teach or suggest providing a review request in response to at least the inference at a time spaced apart from the order and that it is up to user to decide the period of time before evaluating, (14) Klingman teaches away from an inference based at least in part on the customer ordering a second item because Klingman is indifferent to personal traits of the customer and does not teach or suggest maintaining any information about a customer other than that needed to confirm his/her identity, (15) Klingman does not teach or suggest directly or indirectly rating a seller of an item, and (16) Klingman does not teach or suggest the evaluation period varying from a first item to a second item.

In response to argument (9) of the Applicant, Examiner respectfully disagrees. Klingman discloses the ability to provide a textual reviews in figure 5, column 12, lines 18-30 and 51-63, column 13, lines 9-15 and 40-49. Examiner also points out that figure 5 was pointed out to show an example of a computer screen with rating information related to a purchased product, as discussed in column 5, lines 25-27.

In response to argument (10) of the Applicant, Examiner respectfully disagrees and points out that a "textual review" in its broadest reasonable interpretation is a review that contains words. Examiner points out that yes and no are words and therefore a review of yes or no is a textual review (as opposed to a numerical review) no matter how the text is input into the system. The review provided by the rater is displayed to other customers, as disclosed in at least

Art Unit: 3623

column 5, lines 1-6, column 6, lines 1-20, column 8, lines 10-27 and 45-60, column 9, lines 1-19 and 30-46, column 10, lines 46-65, and column 11, lines 1-20.

In response to argument (11) of the Applicant, Examiner respectfully disagrees.

Klingman teaches selecting a time to request a review of the purchased item (i.e. the requester selects the time just after the purchase of the item), the time being selected at least in part on an estimated evaluation period (i.e. the time was chosen at least in part with the consideration that an appraisal period will occur, as stated in at least column 8, lines 10-27). Klingman further teaches providing an item request (i.e. an item request is offered via a link), wherein the timing of the request is based at least in part on the selected time (the time at which the customer may access the request is based at least in part on the selected time, this selected time being after purchase), as stated in column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59. Furthermore, the limitations of claim 36 do not bar a requester from selecting the time just after purchase, if after consideration this is the time chosen. It is well known that a customer must first buy and/or use an item before being able to form an opinion about the quality of said product. As to teaching a mechanism that bars multiple accesses to reviews, Examiner agrees that Klingman teaches a feature that bars a user from making multiple reviews about the same purchased product, but also maintains that Klingman also teaches requesting a review, as discussed above.

In response to argument (12) of the Applicant, Examiner respectfully disagrees and points out that while the “Score” button is always present on the interface, the functionality of the “Score” button may only be accessed by a purchaser at a time after the product’s purchase. See at least column 9, lines 9-13 and 41-46, and column 10, lines 20-35 and 45-60, which

Art Unit: 3623

discusses a buyer having access to the score function once and only once after the buyer's ID is verified in the ID tables. This rating must occur at a time after the purchase, a time spaced apart from the purchase, etc. Examiner points out that the limitations of the independent claims do not specifically define what time after purchase must be used. Claim 18 states that it is inferred when the customer has evaluated the item and that a review request is provided "in response to at least the inference at a time spaced apart from the order" (i.e. the limitations suggest that when the item has been evaluated is considered, but offer no specific, functional implementation for the consideration and in fact state that the review is provided in response to at least this consideration along with perhaps others. Perhaps it is decided based on the consideration to provide immediate access to the rating function, or perhaps it is decided to wait 30 days). Claim 36 recites that "the time [of the request] is selected at least in part on an estimated evaluation period", so the same rationale used with regards to claim 18 applies. Therefore, Examiner maintains the rejections based on the teachings and suggestions of Klingman.

In response to argument (13) of the Applicant, Examiner respectfully disagrees and cites the limitations of the claims, which disclose receiving a customer order for an item from an electronic catalog, inferring when the customer has evaluated the item, providing a review request based on the inference, and receiving the review electronically. Since the word infer means merely to suppose or conclude, the limitation of inferring when the customer has evaluated the item does not necessarily include a specific time or time period of use and the limitation of providing a review request based on this inference does not necessarily include that the review request must be provided after a specific time or time period. Examiner points out that these limitations suggest that the usage period is considered, but offer no specific, functional

Art Unit: 3623

implementation for the consideration. Therefore, taken in the broadest reasonable interpretation, these limitations merely recite supposing when a customer will have evaluated an item and providing a review request after considering the inference (such as, assuming when a customer will have evaluated the item, such as at purchase or after a period of use, and providing the review request immediately after purchase to give the customer the ability to evaluate the item and complete the request when ready). Therefore, Klingman does teach inferring when the customer has evaluated the item, as stated in column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, when it requires that a customer base his/her opinion at least in part on the purchase of the item and concludes that after the purchase the customer has at least initially evaluated the item.

In response to argument (14) of the Applicant, Examiner points out that the limitation directed towards the inference being based on the customer ordering a second item was added in the amendments received on 07/10/03. Therefore, this limitation has been addressed below in the new art rejection of claim 27, as necessitated by amendment. Examiner points out that there is no specific functionality in the limitations of the claims that indicates why the customer ordering a second item is any different than the customer ordering the first.

In response to argument (15) of the Applicant, Examiner points out that Applicant stated on page 25 that the “rating of items and rating of sellers may be completely independent issues”. Examiner further points out that Klingman teaches rating and the means for rating an item as a way of punishing or rewarding the seller of said item, as stated in column 1, lines 36-47, and column 9, lines 44-46, and therefore teaches reviewing the seller through the review of his/her product. Since Klingman provides the means to rate an item and through this rating rate the

Art Unit: 3623

seller and since it was old and well known at the time of the invention to rate the seller of a purchased item, Examiner maintains that it would have been obvious to one of ordinary skill in the art at the time of the invention to rate the seller of the item directly.

In response to argument (16) of the Applicant, Examiner respectfully disagrees with the Applicant and further asserts that Klingman teaches customers electronically purchasing items and customers coming to an opinion on the quality of a purchased item after a period of user, as stated in column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59.

While Klingman does not expressly disclose what this period of usage would specifically be, it is obvious that it takes longer to use and evaluate some items. For example, it would be obvious to one of ordinary skill in the art that it would take a customer longer to evaluate a car than a painting. Therefore, since Klingman allows a customer to rate an item after purchase and an assumed period of use, this evaluation period would obviously vary by item and customer. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to vary the evaluation period between items due to the amount of time needed to use the item.

6. Applicant's arguments with regard to InstantSurvey (*NetReflector*) have been fully considered but they are not persuasive. In the remarks, Applicant argues that InstantSurvey does not teach or suggest (17) sending reviews to e-mail addresses received from customers.

In response to argument (17) of the Applicant, Examiner points out that InstantSurvey was relied upon to teach providing a survey to a respondent via email, as taught in at least reference B, page 2, which discloses sending the survey to respondents via personalized email. Therefore, Examiner maintains that the teachings of InstantSurvey in combination with the

Art Unit: 3623

teachings of Sheff teach and suggest the necessary elements of sending reviews to e-mail addresses received from customers.

7. Applicant's arguments with regard to Hiam (*Marketing for Dummies*) have been fully considered but they are not persuasive. In the remarks, Applicant argues that Hiam does not teach or suggest (18) providing a reward in exchange for a review because Hiam gives sales promotions to every person that receives a survey, whether or not the person returns the received survey.

In response to argument (18) of the Applicant, Examiner again cites pages 100 and 101 of Hiam, which states, "The survey should be interesting or rewarding for them to do. A good topic, well-written instructions, easy, quick questions, and perhaps the inclusion of a sales promotion (coupon, entry form for a contest, and so on) can make the respondents' experience more pleasurable – and ensure a reasonably high response rate." Hiam therefore teaches providing the user an incentive in the form of an enticement or motivation to provide the item review, which meets the limitations of claim 29. Examiner again asserts that whether or not a person chooses to be a respondent is irrelevant to the incentive (i.e. reward) intent of the payment by the requesting party.

8. Applicant's arguments with regard to Chislenko (U.S. 6,092,049) have been fully considered but they are not persuasive. In the remarks, Applicant argues that Chislenko (19) does not teach or suggest presenting a list of items purchased by the customer and therefore does not teach the limitations asserted by the examiner in claim 28.

In response to argument (19) of the Applicant, Examiner respectfully disagrees and further asserts that Chislenko teaches presenting a saved list of ratable items to the customer,

Art Unit: 3623

including recordings, movies, novels, etc., from which the customer can choose items to be rates, as stated in at least column 3, lines 5-14, and column 4, lines 5-15. Examiner points out that she never asserted that the saved list of items were purchased items of the customer's, just that the customer would rate the items presented in the list.

9. Applicant's arguments with regard to the § 103 rejections have been fully considered but they are not persuasive. In the remarks, Applicant argues that (20) in order to establish a prima facie case of obviousness the prior art reference must teach or suggest all the claim limitations, (21) Sheff and Klingman do not teach the motivation of presenting the survey results in an easy to understand format since the information received is different than that presented to the public and since the survey results of Sheff are already in an easy to understand format, (22) Applicant disagrees that it is old and well known that words are more expressive in giving an opinion than numbers, (23) with respect to claim 7, no motivation is provided that it is more effective to provide a review on a web page versus via mail, (24) there is no motivation to combine Sheff and Chislenko because Sheff teaches away from providing a first customer with personalized recommendations for items similar to the reviewed item by instead teaching that only aggregated and processed survey results are provided, (25) there is no motivation to modify Klingman to include an inference based on a survey of how long it takes consumers to read books, (26) there is no motivation to modify Klingman in view of Chislenko in order to "enhance recommendation accuracy" because Klingman does not disclose or suggest using a received review to recommend other items to a customer or providing any type of a recommendation of other items to a customer, (27) there is no motivation to combine InstantSurvey and Klingman since Klingman does not disclose the desirability of delivering surveys at specific dates or times and

Art Unit: 3623

InstantSurvey does not teach or suggest the customization of dates or times of delivery and appears to electronically deliver the survey right after email addresses are provided, (28) since Klingman does not teach or suggest a profile of items rated by a user as required by Chislenko, Klingman can not be modified to calculate similarity factors with weights assigned to each of the neighboring users, (29) Since Sheff does not consider the traits of the item when sending out a survey based on an inference, the combination of Klingman and Sheff does not teach or suggest the items as a car, a video, an audio recording, or a book with the inference based on the estimated time to drive first amount, until video is viewed, until the customer listens to the recording, or related to type of book, respectively, and (30) it is not obvious in view of Klingman to provide a review the recipient of the gift because Klingman teaches away from a gift recipient and because modifications of the prior art that change the principle operation of the prior art being modified cause the teachings of the prior art to be insufficient in establishing prima facie obviousness.

In response to argument (20) of the Applicant, Examiner points out that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Therefore, Examiner maintains that a prima facie case of obviousness has been established in each instance in this case through the teachings of the references as well as the knowledge generally available to one of ordinary skill in the art.

In response to argument (21) of the Applicant, Examiner respectfully disagrees and reiterates the statement of the Applicant that Sheff already provides results in an easy to understand format. Klingman also discusses the importance of providing survey results in a useful manner, as stated in at least column 12, lines 64-67, and column 13, lines 15-25. Therefore, Examiner maintains that Sheff and Klingman do teach and suggest the motivation of presenting the survey results in an easy to understand format, as does the knowledge generally available to one of ordinary skill in the art.

In response to argument (22) of the Applicant, Examiner respectfully disagrees with the Applicant's assertion. Klingman discusses the benefit received from a simple numeric scoring scheme in column 13, lines 15-25 and states that a minimal amount of information is conveyed. Examiner asserts the words "yes" or "excellent" are more expressive than the number "10". Therefore, Examiner maintains that it is old and well known that words are more expressive in giving an opinion than numbers.

In response to argument (23) of the Applicant, Examiner reiterates the motivation that was presented with respect to claim 7 in this and the previous office action. Examiner maintains that since presenting review requests on a Web Page was well known at the time of the invention, it would have been obvious to one of ordinary skill in the art at the time of the invention to present the review request on a web page in order to increase the effectiveness of presenting the review request to consumers. More and more consumers are moving to the Internet, making the medium effective for presenting information.

In response to argument (24) of the Applicant, Examiner respectfully disagrees. Examiner asserts there is motivation to combine Sheff and Chislenko. Sheff teaches a general

Art Unit: 3623

methodology wherein a customer provides a review of a purchased item in at least page 1, sections 2 and 3, and page 3, sections 2-7. Chislenko et al. provides the first customer personalized recommendations for items similar to a reviewed item using a collaborative filter, as shown in the abstract, column 2, lines 11-42, and column 3, 38-42, and column 4, lines 25-37. Whether or not Sheff provides aggregated and processed survey results is irrelevant to the review provided by the customer and the reviews provided back to the customer and irrelevant to whether or not the teachings of Sheff and Chislenko can be combined. Since Sheff methodology and Chislenko both teach showing reviews to customers as well receiving reviews from customers, and since Chislenko states that providing a customer with purchase recommendations based on a previously purchased item increases the usefulness of the received review of the customer by using it to increase future sales for the involved companies, there is motivation to one of ordinary skill in the art to combine the teachings of these references.

In response to argument (25) of the Applicant, Examiner points out that Klingman teaches allowing a buyer to provide a review at a time after the purchase, as stated in column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59. Klingman considers that a buyers will have at least initially evaluated the item at the time of the review. Klingman also suggest that the item is a book in at least column 12, lines 30-50. Examienr asserts that the only way to determine a statistic about how long it takes an average consumer to read a book is by asking them. Consumer surveys are old and well known in marketing. Examiner also points out that the limitation of the claim suggests that this survey of consumers is considered in the inference, but offers no specific, functional connection between the survey and the inference. Therefore, making an inference based at least on a survey of how long it takes a consumer to

Art Unit: 3623

read a book would have been obvious to one of ordinary skill in the art at the time of the invention.

In response to argument (26) of the Applicant, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Chislenko states that providing a customer with purchase recommendations based on a previously purchased item increases the usefulness of the received review of the customer by using it to increase future sales for the involved companies. Therefore, since both Klingman and Chislenko discuss receiving reviews from and providing reviews to customers, there is a suggestion and teaching found in the prior art to combine the references.

In response to argument (27) of the Applicant, Examiner respectfully disagrees. Klingman teaches a system that facilitates a user's buying and rating a product by providing means for the user to rate the products purchased, as stated in column 1, lines 36-47, and column 4, lines 20-25. InstantSurvey also teaches means for a user to rate products purchased, as stated in reference A, pages 1 and 2, and reference C, page 1. Therefore, it would have been obvious to one of ordinary skill in the art to combine aspects of these systems. Examiner points out that Klingman was not relied upon for the customization of delivery dates and times beyond the providing of the review after purchase. Therefore, InstantSurvey was relied upon to teach and suggest these aspects. InstantSurvey discloses that a surveyor can customize a survey and its

Art Unit: 3623

delivery, as stated in reference A, pages 1 and 2, and reference B, page 2. Customizing a sending from a company is well known in the art. For example, companies at the time of the invention sent e-mails about holiday sales on the holiday or on the weekend just before the holiday. Companies at the time of the invention also posted ads and sent mailings on weekends and in holiday papers. In both cases, the reasoning behind their timing was exposure for customer response. The surveyor of InstantSurvey also chooses his/her survey and the timing of when the survey request is delivered. Therefore, Examiner asserts again that it would be obvious to one of ordinary skill in the art at the time of the invention to choose a day such as a holiday or weekend.

In response to argument (28) of the Applicant, it is noted that the feature upon which applicant relies (i.e., calculating similarity factors with weights assigned to each of the neighboring users) is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to argument (29) of the Applicant, Examiner respectfully points out that the claims that recite the limitations of this argument (claims 30-33) were rejected under 35 USC § 103 over Klingman. Sheff was not relied upon as a reference to reject these claims. Examiner maintains that since Klingman teaches a period of use of a purchased item before a customer comes to an opinion on the quality of the item and allowing said customer to rate said item in at least column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, it would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item after the customer had had enough time to use the item

Art Unit: 3623

because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. It is old and well known that a car, a book, an audio recording, and a video are all purchased items and that driving, reading, listening, and viewing are ways to use these purchased items. Furthermore, it is old and well known that companies, provide follow-up evaluations at times after a purchase/service to ascertain an opinion about said purchase/service based on a period of use.

In response to argument (30) of the Applicant, Examiner respectfully disagrees. First, Klingman teaches a method where the review request is provided to a recipient who is the user of the product and, after an intended period of use, this recipient of the product rates the item. See at least column 9, lines 41-46. While Klingman does not expressly disclose providing the ability to review to the recipient of a gift item, Klingman suggests that the reviewer is the person who receives and uses the item. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to supply the review request to the user of the product rather than the purchaser because the purchaser, not the recipient, would be the one using the item and able to evaluate its quality. In fact, at the time of the invention, it was well known in the art that (1) boxed items, such as toys, computer software, and appliances, contained rating cards within the package and so, when given as a gift, the gift recipient received the evaluation card and (2) gifts could be purchased and sent via the Internet. Therefore, since the principle operation of the methodology of Klingman (i.e. having the user of an item evaluate the item) is not modified, Examiner asserts that obviousness has been established.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheff ("Mr. Satisfaction").

12. As per claim 1, Sheff teaches a method of encouraging customers to provide reviews of purchased items, the method comprising:

receiving an order from a first customer for an item purchased (See page 3, sections 2-7, wherein a customer orders an item. This item falls onto a list that reflects when the item was purchased);

estimating by what date the first customer will have at least initially evaluated the item based at least on the item type (See page 3, sections 2-7, and page 4, sections 1-2, wherein a date is estimated by which the customer will have at least initially evaluated the item based on the item type. In the example, the item type is a car and 90 days are estimated as the time period for initial evaluation. Therefore, 90 days from the date reflecting the purchase of the car is used);

initiating transmission based at least in part on the estimated date, to the first customer on or after the estimated date of a message requesting the first customer to provide a review of the item to thereby encourage the first customer to provide at least one review (See pages 1, sections 1-3, page 3, sections 2-7, and page 4, sections 1-2, wherein a transmission of the review request

Art Unit: 3623

is initiated based on the estimated date. The request is transmitted on or after the estimated date to the customer to encourage the customer to provide a review);

receiving the review from the first customer (See page 1, sections 2 and 3, and page 3, sections 2-7, which discusses receiving a review from a first customer); and

presenting the review to a second customer interested in the item (See page 2, sections 2 and 3, pages 3, section 2, page 4, section 2, wherein the review is presented to a second customer who is looking at the item).

While Sheff does disclose item purchasers moving towards the Internet (page 4, section 2), Sheff does not expressly disclose that the item is purchased from an electronic catalog or that the review request and review are transmitted and received electronically.

Ordering items via electronic catalogs was old and well known at the time of the invention. Furthermore, sending review requests via electronic means and receiving response from customers via electronic means was old and well known at the time of the invention. It would have been obvious to one of ordinary skill in the art at the time of the invention to automate the ordering and reviewing processes of Sheff using electronic means in order to increase the efficiency and timeliness of the surveying and purchasing processes by automating processes that were previously done manually or by mail.

13. As per claim 11, Sheff teaches a method further comprising requesting the first customer to review a seller of the purchased item on or after the estimated date (See page 5, section 1, wherein customers satisfaction with the seller of the purchased item are measured).

Art Unit: 3623

14. Claims 2-5, 7, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheff ("Mr. Satisfaction") in view of Klingman (U.S. 5,950,172).

15. As per claim 2, Sheff discloses customers supplying review of items purchased (See pages 1, sections 1-3, page 3, sections 2-7, and page 4, 1-2, wherein the customer is given a review form and fills it out). However, while Sheff discloses providing a review form to the customer, Sheff does not expressly disclose the format of the form wherein the review is a numerical rating.

Klingman discloses a method wherein the review is a numerical rating (See column 12, lines 22-24, column 13, lines 19-25, which disclose the review as a numerical rating).

Both Sheff and Klingman teach customer review systems wherein the customer rates a previously purchased item using a format provided by the system. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the review of Sheff include a numerical rating in order to increase the integrity of the rating by collecting it and presenting it in a reliable, easy to understand format. It is old and well known that numbers are more universal than words (i.e. any person knows what a 1 is in a scale from 1 to 5).

16. As per claim 3, Sheff discloses customers supplying review of items purchased (See pages 1, sections 1-3, page 3, sections 2-7, and page 4, 1-2, wherein the customer is given a review form and fills it out). However, while Sheff discloses providing a review form to the customer, Sheff does not expressly disclose the format of the form wherein the review is a textual rating.

Art Unit: 3623

Klingman teaches a method wherein the review includes a textual review (See column 12, lines 18-30 and 51-63, and column 13, lines 9-15 and 40-49, wherein the review includes textual reviews).

Both Sheff and Klingman teach customer review systems wherein the customer rates a previously purchased item using a format provided by the system. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the review of Sheff include a textual rating in order to increase the robustness of the rating by collecting an opinion from the customer that reflects his/her actual sentiments. It is old and well known that words are more expressive in giving an opinion than are numbers.

17. As per claim 4, Sheff discloses a method wherein the review is a collected, and in conjunction with presenting the review to other customers, indicating that the review comes from a purchaser of the reviewed item (See pages 1, sections 1-3, page 2, section 4, page 3, sections 2-7, and page 4, sections 1-2, wherein a review is transmitted to and received from a consumer and, when the review is presented to another potential purchaser, the report containing the review is called a consumer report, reflecting that the scores are from actual consumers of the item).

However, while Sheff discloses providing a review form to the customer, Sheff does not expressly disclose the format of the form wherein the review is a textual rating.

Klingman teaches a method wherein the review includes a textual review (See column 12, lines 18-30 and 51-63, and column 13, lines 19-15 and 40-49, wherein the review includes textual reviews).

Both Sheff and Klingman teach customer review systems wherein the customer rates a previously purchased item using a format provided by the system. It would have been obvious to

Art Unit: 3623

one of ordinary skill in the art at the time of the invention to have the review of Sheff include a textual rating in order to increase the robustness of the rating by collecting an opinion from the customer that reflects his/her actual sentiments. It is old and well known that words are more expressive in giving an opinion than are numbers.

18. As per claim 5, Sheff teaches a method further comprising offering the first customer a reward in exchange for the customer providing a review (See page 3, section 3, wherein the respondents are presented an incentive/prize as a trade for providing the review).

19. As per claim 7, Sheff discloses presenting the customer with a review request (See pages 1, sections 1-3, page 3, sections 2-7, and page 4, sections 1-2, wherein the customer is presented with a visual review request). However, while Sheff discloses that item buyers are using the Internet (See page 4, section 2), Sheff does not expressly disclose presenting the review request on a web page.

Klingman teaches a method wherein the review request is presented on a Web page (See column 10, lines 11-12, 40-41 and 66-67, and column 7, lines 1 and 4-15, wherein the review request is presented on a web page).

Both Sheff and Klingman teach customer review systems wherein the customer rates a previously purchased item using a provided form. Presenting review requests on a Web Page was well known at the time of the invention. Furthermore, Sheff discloses that item buyers are now on the Internet, offering them access to more information, as stated on page 4, section 2. It would have been obvious to one of ordinary skill in the art at the time of the invention to present the review request on a web page in order to increase the effectiveness of presenting the review

Art Unit: 3623

request to consumers. More and more consumers are moving to the Internet, making the medium effective for presenting information.

20. As per claim 13, Sheff teaches an estimated time period and estimating by what date the first customer will have at least initially evaluated the item based at least on the item type (See page 3, sections 2-7, and page 4, sections 1-2, wherein a date is estimated by which the customer will have at least initially evaluated the item based on the item type. In the example, the item type is a car and 90 days are estimated as the time period for initial evaluation. Therefore, 90 days from the date reflecting the purchase of the car is used). However, while Sheff discloses other items to be rated, such as tires, phone services, hotels, etc. (see page 1, section 1), Sheff does not expressly disclose that the item is a book and that the estimated time is based in part on the length of the book.

Klingman teaches a method where a type of item rated is a book and after a period of user, the customer chooses to rate the item (See column 12, lines 33-42, which discusses rating a product which is a work of fiction by Shakespeare. See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item).

However, while Klingman discloses a book and a time to evaluating an item after purchase (see column 9, lines 41-46), Klingman does not expressly disclose estimating a time based at least in part on the length of the book.

It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Sheff discloses the practice of providing follow-up reviews for items at estimated time intervals after purchase to ascertain an

Art Unit: 3623

opinion about said purchase based on an adequate period of usage, as stated by Sheff, pages 1, 3, and 4. Klingman also discloses follow-up evaluations provided by customers for purchased item types such as books, as stated in column 4, lines 60-62, and column 9, lines 40-45, and that a book is an item purchased electronically, as stated above. Furthermore, it is old and well known that a common way to use a book is to read it and the time this usage (reading) takes depends on factors such as its length. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item after the customer had had enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating.

21. Claims 6, 8, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheff ("Mr. Satisfaction") in view of InstantSurvey (*NetReflector*).

The following references explain the different aspects of InstantSurvey and are considered as one reference:

- i. Article "A few well-placed questions" from Inc (referred to herein as reference A)
- ii. Article "NetReflector's www.InstantSurvey.com goes live today" from Business Wire (referred to herein as reference B)
- iii. Article "Instant Survey Gets Info from Customers, Fast" from Small Business Information (referred to herein as reference C).

22. As per claim 6, Sheff teaches a method wherein the review request is provided via mail (See pages 1, sections 1-3, page 3, sections 2-7, and page 4, sections 1-2, wherein the review

Art Unit: 3623

request is transmitted). However, while Sheff discloses that item buyers are using the Internet (See page 4, section 2), Sheff does not expressly disclose transmitting the review request via e-mail.

InstantSurvey discloses providing a survey to a respondent via email (See reference B, page 2, which discloses sending the survey to respondents via personalized email).

Both Sheff and InstantSurvey teach sending requests to identified respondents. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the review request of Sheff to the customer using email in order to increase the effectiveness of the surveying campaign by more efficiently attaining more reviews at a lower cost. Surveying using e-mail was old and well known at the time of the invention.

23. As per claim 8, Sheff teaches a method wherein the review request is provided via mail (See pages 1, sections 1-3, page 3, sections 2-7, and page 4, sections 1-2, wherein the review request is transmitted). However, while Sheff discloses that item buyers are using the Internet (See page 4, section 2), Sheff does not expressly disclose the customer accessing a review form using the review request message.

InstantSurvey discloses the customer accessing a review form using the review request message (See reference B, page 2, and reference A, page 2, wherein the link to the review is emailed to the customer. The customer uses this link to access the survey page).

Both Sheff and InstantSurvey teach sending review requests to identified respondents. Sheff both mails a review request to a previous purchaser and states that more item purchasers are using the Internet, as stated on page 1, sections 1-3, page 3, sections 2-7, and page 4, section 2. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

Art Unit: 3623

invention to send the customer of Sheff the review request and have the customer access the review form using this message in order to increase the effectiveness of the surveying campaign by more efficiently attaining more reviews at a lower cost. Surveying in this manner was old and well known at the time of the invention.

24. As per claim 9, Sheff teaches a method wherein the review request is provided via mail (See pages 1, sections 1-3, page 3, sections 2-7, and page 4, sections 1-2, wherein the review request is transmitted). However, while Sheff discloses that item buyers are using the Internet (See page 4, section 2), Sheff does not expressly disclose transmitting the review request via e-mail or this message containing a hyperlink.

InstantSurvey discloses the review request including a hyperlink to a review form (See reference B, page 2, and reference A, page 2, wherein the review request includes a link to the review form).

Both Sheff and InstantSurvey teach sending review requests to identified respondents. Sheff states that more item purchasers are using the Internet, as stated on page 4, section 2. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to send the customer of Sheff an email containing a hyperlink to the review form in order to increase the effectiveness of the surveying campaign by more efficiently attaining more reviews at a lower cost (less paper, higher response rate because online surveys are easy to use). Surveying in this manner was old and well known at the time of the invention.

25. As per claim 12, Sheff teaches a method comprising:

receiving at least one address provided by the first customer (See page 3, sections 2-7);

forwarding the review to the address (See pages 1, sections 1-3, page 3, sections 2-7, and page 4, sections 1-2, wherein the review request is forwarded to the address).

However, Sheff does not expressly disclose that this address is an email address or that this address is that of a person other than the first customer.

InstantSurvey teaches:

receiving at least one email address provided by the customer (See reference C, page 2, which discloses the customer's email addresses having been received by the surveyor); and

forwarding the review to the address (See Reference A, page 2, and Reference B, page 2, wherein the review is sent to the e-mail address of the customer).

However, InstantSurvey does not expressly disclose that this email address is that of a person different than the first customer.

Both Sheff and InstantSurvey teach sending review requests to identified respondents. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the review request of Sheff to the customer using email in order to increase the effectiveness of the surveying campaign by more efficiently attaining more reviews at a lower cost. Surveying using e-mail was old and well known at the time of the invention.

Furthermore, it was well known at the time of the invention to provide the email address of other persons at the time of purchase. InstantSurvey allows the customer to provide any e-mail address he or she chooses at the time of purchase and, therefore, the customer would provide another person's email address if he/she so chooses, such as the case of buying a present. Sheff teaches an example wherein the item is a car and the new car is registered, the address for the mailing reflecting that of the name in which the car is registered. If the purchased car is a

gift, than this name would be that of the person for which the car is intended. It would have been obvious to one of ordinary skill in the art at the time of the invention to the person actually using the item in order to increase the accuracy of the provided rating by allowing the person with knowledge of the item to rate it.

26. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sheff ("Mr. Satisfaction") in view of Chislenko (U.S. 6,092,049).

27. As per claim 10, Sheff teaches a customer providing a review of a purchased item (See page 1, sections 2 and 3, and page 3, sections 2-7, which discusses receiving a review from a first customer). However, Sheff does not expressly disclose using a collaborative filter which provides the customer personalized recommendations for items similar to the reviewed item.

Chislenko et al. teaches a method further comprising using a collaborative filter which, based at least in part on the first customer's review, provides the first customer personalized recommendations for items similar to the reviewed item (See abstract, column 2, lines 11-42, and column 3, 38-42, and column 4, lines 25-37, which disclose collaborative filtering and providing the customer personalized recommendations based on his/her rating profile).

Both Sheff and Chislenko teach a customer providing a review of a previously purchased item, these reviews being shown to a second potential purchaser. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the previous product review of a customer to provide said customer with recommendations for future purchases in order to increase the usefulness of the received review of the customer and use it to increase future sales for the involved companies (See abstract).

Art Unit: 3623

28. Claims 18-21, 24, 26, 27, 30-38, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman (U.S. 5,950,172).

29. As per claim 18, Klingman teaches a method of requesting a review of a purchased item, the method comprising:

receiving customer orders for an item purchased (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, all of which disclose receiving customer orders for an item purchased from an electronic catalog. Identifications about these orders are stored in a table);

inferring that the customer has evaluated the item after a time period of use (See column 8, lines 22-25, and column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discuss that after a period of use the customer has evaluated the quality of a purchased item);

providing a review request in response to at least the inference at a time spaced apart from the order, wherein the review request requests that the customer provide a review of the purchased item (See column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 4-10, which disclose providing a review request at a time after purchase/ordering (after verifying that the customer has previously purchased the item, thus the system knows that the customer has had the opportunity to use the item and come to an opinion about its quality), said review request asks the customer to provide feedback (a review) about their impression of the item); and

Art Unit: 3623

receiving the review (See column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 9-18, which describes the electronic receipt of rating information from the customer).

However, while Klingman discloses a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose inferring when the customer has evaluated the item.

It would have been obvious to one of ordinary skill in the art at the time of the invention to infer when a customer has evaluated an item previous to providing said customer with a review because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage).

30. As per claim 19, Klingman disclose a method further comprising verifying that the received review is from a customer that ordered the item (See column 4, lines 20-24 and 55-62, column 6, lines 7-10 and 35-39, column 8, lines 19-25, column 10, lines 55-58, and column 11, lines 9-20, all of which talk about verifying the identity of the reviewer before allowing the reviewer to enter a score. See also column 5, lines 3-6, column 10, lines 58-65, which discloses

Art Unit: 3623

verifying that the review is from a purchaser who has not yet rated the item (thus not allowing a user to provide more than one rating)).

31. As per claim 20, Klingman teaches a method wherein the review is a textual review, and further comprising of presenting the received textual review to other customers in conjunction with an indication that the textual review is from a purchaser of the item (Once the reviews are entered, the reviews are presented to other customers in the context that the review comes from a purchaser of the reviewed item. See column 9, lines 30-35 and 41-46, column 12, lines 18-30 and 50-63. See also column 5, lines 56-59, column 8, lines 19-27 and 33-38, column 20, lines 6-9, and column 14, lines 27-30, which disclose presenting a customer interested in said item with a review by a purchaser of said item).

32. As per claim 21, Klingman teaches a method where the received review is provided to other customers (See column 5, lines 56-59, column 8, lines 19-27 and 33-38, column 20, lines 6-9, and column 14, lines 27-30, which disclose providing a received review to other customers).

33. As per claim 24, Klingman disclose a method where the ability to rate an item is based on a time period of use after which the customer will be able to form an opinion about said item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discuss that after a period of use the customer has evaluated the quality of a purchased item);

However, while Klingman discloses a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose an inference about when the customer has evaluated an item being based on an estimation of how long it will take to evaluate the purchased item.

Art Unit: 3623

It would have been obvious to one of ordinary skill in the art at the time of the invention to infer through estimation the amount of time it would take a customer to evaluate an item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage).

34. As per claim 26, Klingman discloses a method where a period of use of a purchased item is needed for a customer to come to an opinion about the quality of the purchased item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item); and

an item purchased can be a book (See column 12, lines 35-42).

However, Klingman does not expressly disclose using a consumer survey to determine how long it takes consumers to read books and using this to make an inference.

It would have been obvious to one of ordinary skill in the art at the time of the invention to make an inference about the amount of time needed to use a book in order to form an opinion based on a consumer survey about the length of time it takes consumers to read books because

Art Unit: 3623

doing so would provide the estimator with more accurate information with which to base his/her estimations. Furthermore, consumer surveys are old and well known in the art.

35. As per claim 27, Klingman discloses a method where a period of use of a purchased item is needed for a customer to come to an opinion about the quality of the purchased item (See column 8, lines 22-25, and column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item);

having a customer enter information into an order form (See column 14, lines 41-46); and storing a Customer ID in an id table about the purchase so the customer can later review the purchased product (See at least column 10, lines 45-65).

However, Klingman does not expressly disclose making inferences based on the customer ordering a second item.

It would have been obvious to one of ordinary skill in the art to make an inference about the amount of time needed to use an item based on the consumer using said item because taking the consumer's specific attributes into consideration would increase the accuracy of the inference and therefore the accuracy of the scores provided. For example, some people read books slower than other people and so it would take them a longer usage period to evaluate the item.

36. As per claim 30, Klingman teaches a method where the item is purchased (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, all of which disclose an item being purchased by a customer); and

after a period of use of said purchased item, assuming a customer has come to an opinion on the quality of the purchased item and allowing said customer to rate said item (See column 8,

Art Unit: 3623

lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item).

However, while Klingman discloses the purchase of an item and a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose the item as a car and inferring when the customer have evaluated the item is related to an estimated time it will take a driver to drive a first amount driven.

It would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item after the customer had had enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. A car is a purchased item. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage). Since it is old and well known that a common way to use a car is to drive it and the time it takes to evaluate the car is dependant on the number of miles driven, it would have been obvious to use this feature to estimate usage.

Art Unit: 3623

37. As per claim 31, Klingman teaches a method where the item is purchased (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, all of which disclose an item being purchased by a customer); and after a period of use of said purchased item, assuming a customer has come to an opinion on the quality of the purchased item and allowing said customer to rate said item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item).

However, while Klingman discloses the purchase of an item and a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose the item as a video and inferring when the customer have evaluated the item is related to an estimated time until the customer has viewed the video.

It would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item after the customer had had enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. A video is an item purchased electronically. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of

Art Unit: 3623

usage). Since it is old and well known that a common way to use a video is to watch it, it would have been obvious to wait until a time period at which a customer would have viewed the video before eliciting their opinion.

38. As per claim 32, Klingman teaches a method where the item is purchased (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, all of which disclose an item being purchased by a customer); and

after a period of use of said purchased item, assuming a customer has come to an opinion on the quality of the purchased item and allowing said customer to rate said item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item).

However, while Klingman discloses the purchase of an item and a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose the item as an audio recording and inferring when the customer have evaluated the item is related to an estimated time until the customer has listened to the audio recording.

It would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item after the customer had had enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. An audio recording is an item purchased electronically. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and

Art Unit: 3623

Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage). Since it is old and well known that a common way to use an audio recording is to listen to it, it would have been obvious to wait until a time period at which a customer would have listened to the audio recording before eliciting his/her opinion.

39. As per claim 33, Klingman teaches a method where the item is a book (See column 12, lines 33-42, which discusses rating a product which is a work of fiction by Shakespeare); and after a period of use of said purchased item, assuming a customer has come to an opinion on the quality of the purchased item and allowing said customer to rate said item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item).

However, while Klingman discloses a book and a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose the act of inferring when the customer has evaluated the item is related to the type of book.

It would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item after the customer had had enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. A book, as disclosed by Klingman, is an item purchased electronically. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the

Art Unit: 3623

quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage). Since it is old and well known that a common way to use a book is to read it and the time it takes to read the book depends on factors such as its type, it would have been obvious to use these feature to estimate usage.

40. As per claim 34, Klingman teaches a method where the review request is provided to a recipient who is the user of the product (See column 9, lines 41-46). However, Klingman does not expressly disclose that the item is a gift for a recipient.

It would have been obvious to one of ordinary skill in the art at the time of the invention to supply the review request to the user of the product rather than the purchaser of the product because it would increase the accuracy and validity of the supplied evaluation information. The purchaser, not the recipient, would be the one using the item and able to evaluate its quality.

41. As per claim 35, Klingman disclose a method where the review includes a textual review (See column 12, lines 18-30 and 52-63, and column 13, lines 19-15 and 40-49, which discloses a dynamic rating with the ability to include textual, numerical, and graphical reviews).

42. As per claim 36, Klingman teaches a method of requesting a review of a purchased item, the method comprising:

receiving a customer order for an item purchased from an electronic catalog (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines

Art Unit: 3623

11-12, 22-24, 27-30, and 41-46, all of which disclose receiving a customer order for an item purchased from an electronic catalog); and

providing an item review request after a period of use of said purchased item by the purchasing customer (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discuss using an item and, based on said usage after a period of time, forming an opinion about the quality of a product. A customer is provided a review request after purchase. See column 4, lines 20-25 and 55-62, column 10, line 40-41, and column 11, lines 4-10).

However, while Klingman discloses a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose selecting a time to request a review where the time is selected at least in part on an estimated evaluation period or providing the review at this specifically selected time.

It would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item at a selected a time, this selected time estimated as enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she was rating. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage).

Art Unit: 3623

43. As per claim 37, Klingman teaches a method further comprising providing the customer a request to review an item associated with the electronic catalog, the review of the item serving as a measure about the seller of said item (See column 1, lines 36-47, wherein the item's review speaks about the quality of the seller of the item. See also column 9, lines 44-46, which discusses reviewing an item to punish the seller of said item for poor quality. See also column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, which disclose the item being purchased via an electronic catalog).

However, Klingman does not expressly disclose directly reviewing an item seller or the timing of the request being based at least in part on the selected time.

It would have been obvious to one of ordinary skill in the art at the time of the invention to directly rate an item seller instead of rating an item of the seller to reflect the customer's opinion of the seller because doing so would streamline the method and make the scores easier to understand by showing the feelings of the customer about the seller in a less convoluted manner.

Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to give the customer an evaluation period before rating the seller, the evaluation period estimated as enough time to interact with the item and seller, because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the seller he/she was rating. It is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about the seller of said purchase/service based on a period of time (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage).

Art Unit: 3623

44. As per claim 38, Klingman teaches a method wherein the review request is presented as at least one of an email and a Web Page (See column 10, lines 11-12, 40-41 and 66-67, and column 7, lines 1 and 4-15, wherein the review request is presented on a web page).

45. As per claim 40, Klingman teaches a method wherein a customer comes to an opinion about the quality of the purchased item after the purchase and a period of using said purchased item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discuss using an item and, based on said usage after a period of time, forming an opinion about the quality of a product). However, Klingman does not expressly teach that this evaluation period varies from a first item to a second item.

It would have been obvious to one of ordinary skill in the art at the time of the invention that when a evaluation period is estimated for a first item and an evaluation period is estimated for a second item, these evaluations period will vary because the amount of time needed to use an item enough to render an opinion is dependant on the item and its use. For example, it would obviously take longer to evaluate a car than a 60-minute audio recording. By accounting for these differences, the integrity of the scores in each instance is maximized.

46. Claims 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman (U.S. 5,950,172) in view of Hiam (*Marketing for Dummies*).

47. As per claim 29, Klingman does not expressly disclose offering the customer an incentive to provide the item review.

Art Unit: 3623

Hiam teaches offering the customer an incentive in exchange for the customer providing an item review (See page 100-101, which discloses offering a consumer something in return for answering a survey/review, such as a coupon, an entry into a contest, etc.).

It would have been obvious to one of ordinary skill in the art at the time of the invention to offer customers an incentive such as a reward for filling out a provided survey/review because doing so would increase the response rate of the customers by making responding to the review more appealing and pleasurable.

48. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman (U.S. 5,950,172) in view of InstantSurvey (*NetReflector*).

The following references explain the different aspects of InstantSurvey and are considered as one reference:

- i. Article "A few well-placed questions" from Inc (referred to herein as reference A)
- ii. Article "NetReflector's www.InstantSurvey.com goes live today" from Business Wire (referred to herein as reference B).
- iii. Article "Instant Survey Gets Info from Customers, Fast" from Small Business Information (referred to herein as reference C)

49. As per claim 25, Klingman does not expressly disclose a method where the review request is selectively delivered on one of a weekend and a holiday.

InstantSurvey discloses where the review request is delivered electronically and the surveyor can customize the survey and its delivery (See reference A, page 1, where the designer of the survey is able to customize said survey and said survey's delivery. See also reference A,

Art Unit: 3623

page 2, and reference B, page 2, which disclose managers having the ability to administer their own online surveys).

It would have been obvious to one of ordinary skill in the art at the time of the invention to choose to deliver a review request on a weekend or a holiday because doing so would increase the likelihood of response by the consumer due to the fact the consumer has free time on weekends and holidays to pay bills, read newspapers, reply to surveys, run errands, etc. Furthermore, it is old and well known that unlike mail, the time frame for delivery of email can be distinctly chosen.

50. Claims 22, 23, 28, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman (U.S. 5,950,172) in view of Chislenko (U.S. 6,092,049).

51. As per claim 22, Klingman does not expressly disclose a method where the received review is used to recommend other items to the customer.

Chislenko et al. teaches a method where the received review is used to recommend other items to the customer (See abstract, column 2, lines 11-42, and column 3, 38-42, and column 4, lines 25-37, which disclose providing the customer personalized recommendations based on his/her rating profile which contains information about the previously rated items of said customer).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a previous product review of a customer to provide said customer with recommendations for future purchases because using prior knowledge of the customer would enhance recommendation accuracy and increase sales for the recommending company (See abstract).

Art Unit: 3623

52. As per claim 23, Klingman does not expressly teach a method where the received review is used to recommend the item to other customers.

Chislenko et al. teaches a method where the received review is used to recommend the item to other customers (See abstract, column 2, lines 11-42, and column 3, 38-42, and column 4, lines 25-37, which disclose storing previous rating information about purchased/used items in the profiles of users and storing rating information in the profile of a specific item, and then using these profiles to recommend the item to other customers who have not yet purchased the specific item).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a rating profiles of items and the previous items reviewed by a customer to provide said customer with recommendations for future purchases because using prior knowledge of the customer would enhance recommendation accuracy and increase sales for the recommending company (See abstract).

53. As per claim 28, Klingman teaches allowing a user to rate a previously purchased item and allowing the user to choose whether or not he/she wants to rate said item (See column 4, lines 20-24 and 55-62, column 6, lines 7-10 and 35-39, column 8, lines 19-25, column 10, lines 55-58, and column 11, lines 9-20, all of which talk about verifying that the prospective reviewer purchased the item before allowing a score to be entered. The purchaser has the ability to choose to rate the item or not based on the way they feel towards the product. See column 10, lines 41-46).

However, Klingman does not expressly disclose presenting the customer with a list of items and asking the customer if the customer wants to review the listed items.

Art Unit: 3623

Chislenko et al. teaches a method further comprising presenting to the customer a list of items purchased by the customer and asking the customer if the customer wants to review one or more of the listed items (See column 4, lines 5-9, which disclose presenting a customer with a list of items and asking the customer to rate the list of items).

It would have been obvious to one of ordinary skill in the art at the time of the invention to present the customer with a list of items purchased and ask the customer to review one or more of the items because it increases the flexibility of the system and also makes the system more user friendly. When a consumer has purchased more than one product in any given time period, this functionality would remind a consumer about which multiple items were purchased as well as allow them to choose between the items purchased and pick which ones he/she feels strongly about.

54. As per claim 39, Klingman does not expressly disclose the review being used to generate a customer profile.

Chislenko et al. teaches a method further comprising using the review is used to generate a customer profile (See abstract, column 2, lines 11-42, and column 3, 38-42, and column 4, lines 25-37, which discloses storing information about item reviews in the profile of the customer and providing the customer personalized recommendations based on his/her rating profile).

It would have been obvious to one of ordinary skill in the art at the time of the invention to generate a use a review to generate a profile of a customer because using prior knowledge about a customer would allow for more accurate estimations of the review time needed by said customer and there propensity to respond to a review request.

Art Unit: 3623

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882.

The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



bvd

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